

Patent
45198.00027.CON1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Erion *et al.*

Serial No.: 09/978,454

Filed: October 15, 2001

Title: **NOVEL PRODRUGS FOR
PHOSPHORUS-CONTAINING
COMPOUNDS**

Group Art Unit: 1616

Examiner: Dameron Jones

TERMINAL DISCLAIMER UNDER 37 C.F.R. §1.321(B)

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Metabasis Therapeutics, Inc., a corporation duly organized under the laws of the State of Delaware, having a principal office located at 9390 Towne Centre Drive, San Diego, California 92121, and duly represented by the undersigned, represents that it is the assignee of the full title and interest in and to the above-identified Application Serial No. 09/978,454, filed October 15,

CERTIFICATE OF TRANSMISSION
(37 C.F.R. §1.8)

I hereby certify that this paper (along with anything referred to as being attached or enclosed) is being facsimile transmitted to the United States Patent and Trademark Office on the date shown below.

October 1, 2003
Date of Transmission

JIM C. Youkel
Name of Person Transmitting Paper

Signature of Person Transmitting Paper

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2001, as evidenced by the deed of Assignment recorded on October 15, 2001 at Reel 012264, Frame 0962.

Metabasis Therapeutics, Inc., hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on Application Serial 09/978,454 which would extend beyond the expiration date of the full statutory term of prior U.S. Patent No. 6,312,662, the term being defined in 35 U.S.C. 154 to 156. Metabasis Therapeutics, Inc. hereby agrees that any patent granted on Application Serial No. 09/978,454 shall be enforceable only for and during such period that such patent and prior U.S. Patent No. 6,312,662, are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, Metabasis Therapeutics, Inc. does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 of U.S. Patent No. 6,312,662, as presently shortened by any terminal disclaimer filed, in the event that it later expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

I hereby declare that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further, that these statements are made with the knowledge that willful false statements, and the like so made, are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States

Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

The undersigned is an agent of record.

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The Commissioner is hereby authorized to charge Deposit Account No. 50-2613 for the fee due herein and any other fees that may become due or credit become payable during the pendency of this application.

Respectfully submitted,

Dated: October 1, 2003

By:

Cynthia H. O'Donohue
Cynthia H. O'Donohue
Reg. No. 44,980

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